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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,487	08/19/2003	Peter H. Soderberg	281_382NP	5437

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SYRACUSE, NY 13202

EXAMINER

ASTORINO, MICHAEL C

ART UNIT	PAPER NUMBER
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3736

MAIL DATE	DELIVERY MODE
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06/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/643,487

Applicant(s)

SODERBERG ET AL.

Examiner

Michael C. Astorino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 90 and 94-106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 90 and 94-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/2007 & 3/2007.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The examiner acknowledges the response wherein claims 90, and 94-106 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 90, 94, 97, and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanna US Patent Number 6,450,966 B1 in view of Roher US Patent Number 6,579,241 B2.

Claims are rejected on substantially the same basis as the previous office action. See also Response to arguments section below.

Claims 95-96 and 101-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanna US Patent Number 6,450,966 B1 and Roher US Patent Number 6,579,241 B2 as applied to claims 90 and 96 above, and further in view of Halpern et al. US Patent Number 5,687,717 A.

Claims are rejected on substantially the same basis as the previous office action.

Claims 98-100, and 104-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanna US Patent Number 6,450,966 B1 and Roher US Patent Number

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6,579,241 B2 as applied to claims 90 and 96 above, and further in view of Weiner et al. US Patent Number 6,988,989 B2.

Claims are rejected on substantially the same basis as the previous office action. See also Response to arguments section below.

Note to Applicant: the word “for” and “configured to” in the claim may be properly interpreted as “capable of,” and “capable of” does not require that reference actually teach the intended use of the element, but merely that the reference does not make it so it is incapable of performing the intended use.

Response to Arguments

Applicant's arguments filed March 19, 2007 have been fully considered but they are not persuasive.

Regarding claim 90, Applicant argues the prior art does not reject the claim because it does not teach trended blood pressure readings. The applicant argues prior art does not teach his usage of word trended. However the term trended is given the broadest reasonable interpretation is within the prior art and properly rejects the claimed invention.

Regarding claim 104, Applicant argues the prior art does not reject the claim because it does not “. . . compute a percentage that defines an acceptable range of parameter values.” But the Applicant does say in his response on page 13, lines 8-12, “Weiner describes a remote monitoring system in which alerts can be set based on nominal ranges. See Weiner at col 28, lines 17-31. A closer review of this portion, however, indicates that a controller is used to analyze vital sign data in order to detect whether the data is within a preset range. Moreover, this portion further indicates that various

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forms of vital signs data (e.g., blood pressure, pulse oximetry, temperature) may be similarly analyzed."

As such, the prior art discloses a range. If the data is within the alert range the alert would be set off and the condition would be 100%. If the data did not set off the condition it is at 0% and no alert. Therefore the prior art, computes a percentage that defines an acceptable range of parameter values.

Applicant is invited to contact the examiner to request an interview to discuss suggestions that would overcome the applied prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

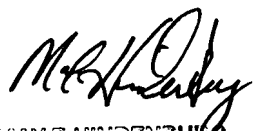
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Astorino whose telephone number is 571-272-4723. The examiner can normally be reached on Monday-Friday, 8:30AM to 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Astorino
June 11, 2007


MAX HINDENBURG
SENIOR PATENT EXAMINER
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